



MEMORANDUM

Agenda Item No. 11(A) (15)

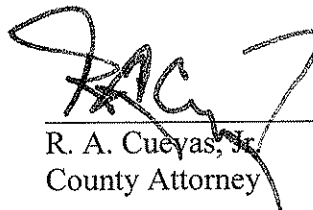
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: December 6, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution urging the Florida legislature to increase regulation of the hiring practices for residential and commercial pest control companies and require pest control companies to incur non-waivable liability for theft while property is under their control, or, in the alternative, to grant local governments greater ability to enact their own regulations

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/cp




MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: December 6, 2011

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11 (A) (15)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A) (15)

12-6-11

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO INCREASE REGULATION OF THE HIRING PRACTICES FOR RESIDENTIAL AND COMMERCIAL PEST CONTROL COMPANIES AND REQUIRE PEST CONTROL COMPANIES TO INCUR NON-WAIVABLE LIABILITY FOR THEFT WHILE PROPERTY IS UNDER THEIR CONTROL, OR, IN THE ALTERNATIVE, TO GRANT LOCAL GOVERNMENTS GREATER ABILITY TO ENACT THEIR OWN REGULATIONS

WHEREAS, current Florida law expressly preempts any ordinance by local government that regulates pest control; and

WHEREAS, present regulations regarding licensure and certification of pest control operators have inadequately protected consumers; and

WHEREAS, homes or businesses undergoing tent fumigation are, by necessity, frequently left with doors unlocked and windows ajar; and

WHEREAS, these homes or businesses are left highly vulnerable to theft with little protection for the property owners; and

WHEREAS, burglaries at properties under tent fumigation are a well-documented problem that pest control companies are well aware of; and

WHEREAS, property owner insurance is not a solution to the problem and best reserved for truly unpreventable or unforeseeable instances; and

WHEREAS, the process of filing insurance claims is often a tiresome ordeal, includes a deductible, and provides little solace to a property owner who has just lost valuable property; and

WHEREAS, home burglaries can have a pervasive negative effect on owners and residents who, well after the incident, may still feel unsafe in their own homes; and

WHEREAS, contracts for tent fumigation routinely require home owners or businesses to grant pest control companies a waiver of any liability in the event of theft or property damage; and

WHEREAS, the legal relationship between property owner and pest control company ought to be understood as one between bailor and bailee, for the property owner has transferred control of their property to the pest control company; and

WHEREAS, pest control companies are the parties best situated to secure the property while fumigation is underway,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to increase regulation of the hiring practices for residential and commercial pest control companies and require pest control companies to incur non-waivable liability for theft while property is under their control, or, in the alternative, to grant local government greater ability to enact their own regulations.

Section 2. Directs the Clerk of the Board to transmit certified copies of the resolution to the Governor, the Senate President, the House Speaker, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate for the issue identified in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2012 state legislative package to include this item and to include this item in the 2013 state legislative package.

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The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa. It was offered by Commissioner _____, who moved its adoption.

The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of December, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MBV

Michael Valdes

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